

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2901

Introduced by Committee on Jobs, Economic Development, and the Economy (Assembly Members Eduardo Garcia (Chair), Brough, Brown, Chau, Chu, Gipson, Irwin, and Mathis)

March 3, 2016

An act to amend Sections 17059.2 and 23689 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2901, as amended, Committee on Jobs, Economic Development, and the Economy. Income taxation: credits: California Competes Tax Credit Committee: GO-Biz.

Existing law allows a credit against the taxes imposed under the Corporation Tax Law and the Personal Income Tax Law for each taxable year beginning on or after January 1, 2014, and before January 1, 2025, in an amount as provided in a written agreement between the Governor's Office of Business and Economic Development and the taxpayer, agreed upon by the California Competes Tax Credit Committee, and based on specified factors, including the number of jobs the taxpayer will create or retain in the state and the amount of investment in the state by the taxpayer. Existing law requires the Governor's Office of Business and Economic Development to post on its Internet Web Site specified information, including the name of each taxpayer allocated a credit, the estimated number of jobs created or retained and the amount of investment by the taxpayer, the amount of credit allocated to the taxpayer, and, if applicable, the amount of credit recaptured from the taxpayer.

This bill would require the Governor's Office of Business and Economic Development to, in addition to the above-described information, post on its Internet Web site the ~~city and county primary location where the jobs created and investments made are located, whether the census tract in which the jobs will be created or the investments will be made is taxpayer has committed to increasing the net number of jobs or make investments, information that identifies each tax credit award that was given a priority for being located in an area of high unemployment or poverty, as provided, and whether the taxpayer is considered a~~ *information that identifies each tax credit award that is being counted toward the amount of the credit required to be allocated to small business, as provided.* ~~The bill would also require the Governor's Office of Business and Economic Development to annually provide a report of aggregate-level data to the Legislature on the information posted on its Internet Web site and the number of total credits applied for and the number of credit applications rejected during the calendar year.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17059.2 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17059.2. (a) (1) For each taxable year beginning on and after
- 4 January 1, 2014, and before January 1, 2025, there shall be allowed
- 5 as a credit against the "net tax," as defined in Section 17039, an
- 6 amount as determined by the committee pursuant to paragraph (2)
- 7 and approved pursuant to Section 18410.2.
- 8 (2) The credit under this section shall be allocated by GO-Biz
- 9 with respect to the 2013–14 fiscal year through and including the
- 10 2017–18 fiscal year. The amount of credit allocated to a taxpayer
- 11 with respect to a fiscal year pursuant to this section shall be as set
- 12 forth in a written agreement between GO-Biz and the taxpayer and
- 13 shall be based on the following factors:
- 14 (A) The number of jobs the taxpayer will create or retain in this
- 15 state.
- 16 (B) The compensation paid or proposed to be paid by the
- 17 taxpayer to its employees, including wages and fringe benefits.
- 18 (C) The amount of investment in this state by the taxpayer.

1 (D) The extent of unemployment or poverty in the area
2 according to the United States Census in which the taxpayer's
3 project or business is proposed or located.

4 (E) The incentives available to the taxpayer in this state,
5 including incentives from the state, local government, and other
6 entities.

7 (F) The incentives available to the taxpayer in other states.

8 (G) The duration of the proposed project and the duration the
9 taxpayer commits to remain in this state.

10 (H) The overall economic impact in this state of the taxpayer's
11 project or business.

12 (I) The strategic importance of the taxpayer's project or business
13 to the state, region, or locality.

14 (J) The opportunity for future growth and expansion in this state
15 by the taxpayer's business.

16 (K) The extent to which the anticipated benefit to the state
17 exceeds the projected benefit to the taxpayer from the tax credit.

18 (3) The written agreement entered into pursuant to paragraph
19 (2) shall include:

20 (A) Terms and conditions that include the taxable year or years
21 for which the credit allocated shall be allowed, a minimum
22 compensation level, and a minimum job retention period.

23 (B) Provisions indicating whether the credit is to be allocated
24 in full upon approval or in increments based on mutually agreed
25 upon milestones when satisfactorily met by the taxpayer.

26 (C) Provisions that allow the committee to recapture the credit,
27 in whole or in part, if the taxpayer fails to fulfill the terms and
28 conditions of the written agreement.

29 (b) For purposes of this section:

30 (1) "Committee" means the California Competes Tax Credit
31 Committee established pursuant to Section 18410.2.

32 (2) "GO-Biz" means the Governor's Office of Business and
33 Economic Development.

34 (c) For purposes of this section, GO-Biz shall do the following:

35 (1) Give priority to a taxpayer whose project or business is
36 located or proposed to be located in an area of high unemployment
37 or poverty.

38 (2) Negotiate with a taxpayer the terms and conditions of
39 proposed written agreements that provide the credit allowed
40 pursuant to this section to a taxpayer.

(3) Provide the negotiated written agreement to the committee for its approval pursuant to Section 18410.2.

(4) Inform the Franchise Tax Board of the terms and conditions of the written agreement upon approval of the written agreement by the committee.

(5) Inform the Franchise Tax Board of any recapture, in whole or in part, of a previously allocated credit upon approval of the recapture by the committee.

(6) Post on its Internet Web site all of the following:

(A) The name of each taxpayer allocated a credit pursuant to this section.

(B) The estimated amount of the investment by each taxpayer.

(C) The estimated number of jobs created or retained.

(D) The amount of the credit allocated to the taxpayer.

(E) The amount of the credit recaptured from the taxpayer, if applicable.

~~(F) The city and county primary location where the jobs created and the investments made are located, which may be more than one city or county.~~ *taxpayer has committed to increasing the net number of jobs or make investments. The primary location shall be listed by city or, in the case of unincorporated areas, by county.*

~~(G) Whether the census tract in which the jobs will be created or the investments will be made is an area of high unemployment or poverty, as provided in paragraph (1).~~

~~(H) Whether the taxpayer is considered a small business pursuant to paragraph (3) of subdivision (g).~~

(G) Information that identifies each tax credit award that was given a priority for being located in a high unemployment or poverty area, pursuant to paragraph (1).

(H) Information that identifies each tax credit award that is being counted toward the requirement of paragraph (3) of subdivision (g).

(d) For purposes of this section, the Franchise Tax Board shall do all of the following:

(1) (A) Except as provided in subparagraph (B), review the books and records of all taxpayers allocated a credit pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the taxpayer and GO-Biz.

(B) In the case of a taxpayer that is a “small business,” as defined in Section 17053.73, review the books and records of the

1 taxpayer allocated a credit pursuant to this section to ensure
2 compliance with the terms and conditions of the written agreement
3 between the taxpayer and GO-Biz when, in the sole discretion of
4 the Franchise Tax Board, a review of those books and records is
5 appropriate or necessary in the best interests of the state.

6 (2) Notwithstanding Section 19542:

7 (A) Notify GO-Biz of a possible breach of the written agreement
8 by a taxpayer and provide detailed information regarding the basis
9 for that determination.

10 (B) Provide information to GO-Biz with respect to whether a
11 taxpayer is a “small business,” as defined in Section 17053.73.

12 (e) In the case where the credit allowed under this section
13 exceeds the “net tax,” as defined in Section 17039, for a taxable
14 year, the excess credit may be carried over to reduce the “net tax”
15 in the following taxable year, and succeeding five taxable years,
16 if necessary, until the credit has been exhausted.

17 (f) Any recapture, in whole or in part, of a credit approved by
18 the committee pursuant to Section 18410.2 shall be treated as a
19 mathematical error appearing on the return. Any amount of tax
20 resulting from that recapture shall be assessed by the Franchise
21 Tax Board in the same manner as provided by Section 19051. The
22 amount of tax resulting from the recapture shall be added to the
23 tax otherwise due by the taxpayer for the taxable year in which
24 the committee’s recapture determination occurred.

25 (g) (1) The aggregate amount of credit that may be allocated
26 in any fiscal year pursuant to this section and Section 23689 shall
27 be an amount equal to the sum of subparagraphs (A), (B), and (C),
28 less the amount specified in subparagraphs (D) and (E):

29 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal
30 year, one hundred fifty million dollars (\$150,000,000) for the
31 2014–15 fiscal year, and two hundred million dollars
32 (\$200,000,000) for each fiscal year from 2015–16 to 2017–18,
33 inclusive.

34 (B) The unallocated credit amount, if any, from the preceding
35 fiscal year.

36 (C) The amount of any previously allocated credits that have
37 been recaptured.

38 (D) The amount estimated by the Director of Finance, in
39 consultation with the Franchise Tax Board and the State Board of
40 Equalization, to be necessary to limit the aggregation of the

1 estimated amount of exemptions claimed pursuant to Section
2 6377.1 and of the amounts estimated to be claimed pursuant to
3 this section and Sections 17053.73, 23626, and 23689 to no more
4 than seven hundred fifty million dollars (\$750,000,000) for either
5 the current fiscal year or the next fiscal year.

6 (i) The Director of Finance shall notify the Chairperson of the
7 Joint Legislative Budget Committee of the estimated annual
8 allocation authorized by this paragraph. Any allocation pursuant
9 to these provisions shall be made no sooner than 30 days after
10 written notification has been provided to the Chairperson of the
11 Joint Legislative Budget Committee and the chairpersons of the
12 committees of each house of the Legislature that consider
13 appropriation, or not sooner than whatever lesser time the
14 Chairperson of the Joint Legislative Budget Committee, or his or
15 her designee, may determine.

16 (ii) In no event shall the amount estimated in this subparagraph
17 be less than zero dollars (\$0).

18 (E) (i) For the 2015–16 fiscal year and each fiscal year
19 thereafter, the amount of credit estimated by the Director of Finance
20 to be allowed to all qualified taxpayers for that fiscal year pursuant
21 to subparagraph (A) or subparagraph (B) of paragraph (1) of
22 subdivision (c) of Section 23636.

23 (ii) If the amount available per fiscal year pursuant to this section
24 and Section 23689 is less than the aggregate amount of credit
25 estimated by the Director of Finance to be allowed to qualified
26 taxpayers pursuant to subparagraph (A) or subparagraph (B) of
27 paragraph (1) of subdivision (c) of Section 23636, the aggregate
28 amount allowed pursuant to Section 23636 shall not be reduced
29 and, in addition to the reduction required by clause (i), the
30 aggregate amount of credit that may be allocated pursuant to this
31 section and Section 23689 for the next fiscal year shall be reduced
32 by the amount of that deficit.

33 (iii) It is the intent of the Legislature that the reductions specified
34 in this subparagraph of the aggregate amount of credit that may
35 be allocated pursuant to this section and Section 23689 shall
36 continue if the repeal dates of the credits allowed by this section
37 and Section 23689 are removed or extended.

38 (2) (A) In addition to the other amounts determined pursuant
39 to paragraph (1), the Director of Finance may increase the
40 aggregate amount of credit that may be allocated pursuant to this

1 section and Section 23689 by up to twenty-five million dollars
2 (\$25,000,000) per fiscal year through the 2017–18 fiscal year. The
3 amount of any increase made pursuant to this paragraph, when
4 combined with any increase made pursuant to paragraph (2) of
5 subdivision (g) of Section 23689, shall not exceed twenty-five
6 million dollars (\$25,000,000) per fiscal year through the 2017–18
7 fiscal year.

8 (B) It is the intent of the Legislature that the Director of Finance
9 increase the aggregate amount under subparagraph (A) in order to
10 mitigate the reduction of the amount available due to the credit
11 allowed to all qualified taxpayers pursuant to subparagraph (A) or
12 (B) of paragraph (1) of subdivision (c) of Section 23636.

13 (3) Each fiscal year, 25 percent of the aggregate amount of the
14 credit that may be allocated pursuant to this section and Section
15 23689 shall be reserved for small business, as defined in Section
16 17053.73 or 23626.

17 (4) Each fiscal year, no more than 20 percent of the aggregate
18 amount of the credit that may be allocated pursuant to this section
19 shall be allocated to any one taxpayer.

20 (h) GO-Biz may prescribe rules and regulations as necessary to
21 carry out the purposes of this section. Any rule or regulation
22 prescribed pursuant to this section may be by adoption of an
23 emergency regulation in accordance with Chapter 3.5 (commencing
24 with Section 11340) of Part 1 of Division 3 of Title 2 of the
25 Government Code.

26 (i) A written agreement between GO-Biz and a taxpayer with
27 respect to the credit authorized by this section shall comply with
28 existing law on the date the agreement is executed.

29 (j) (1) Upon the effective date of this section, the Department
30 of Finance shall estimate the total dollar amount of credits that
31 will be claimed under this section with respect to each fiscal year
32 from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.

33 (2) The Franchise Tax Board shall annually provide to the Joint
34 Legislative Budget Committee, by no later than March 1, a report
35 of the total dollar amount of the credits claimed under this section
36 with respect to the relevant fiscal year. The report shall compare
37 the total dollar amount of credits claimed under this section with
38 respect to that fiscal year with the department's estimate with
39 respect to that same fiscal year. If the total dollar amount of credits
40 claimed for the fiscal year is less than the estimate for that fiscal

1 year, the report shall identify options for increasing annual claims
2 of the credit so as to meet estimated amounts.

3 ~~(k) (1) GO-Biz shall annually provide to the Legislature, by no~~
4 ~~later than March 1, a report of aggregate level data on both of the~~
5 ~~following:~~

6 ~~(A) The information posted on GO-Biz's Internet Web site~~
7 ~~pursuant to paragraph (6) of subdivision (c). The data shall include~~
8 ~~the amount of credits, jobs created, and investments made in all~~
9 ~~of the following:~~

10 ~~(i) Each city and county.~~

11 ~~(ii) Each census tract in which the jobs will be created or the~~
12 ~~investments will be made that is an area of high unemployment or~~
13 ~~poverty, as provided in paragraph (1) of subdivision (c).~~

14 ~~(iii) Each entity that is considered a small business pursuant to~~
15 ~~paragraph (3) of subdivision (g).~~

16 ~~(B) The number of total credits applied for and the number of~~
17 ~~credit applications rejected during the calendar year in total and~~
18 ~~by geographic region, as determined by GO-Biz.~~

19 ~~(2) A report submitted pursuant to paragraph (1) shall be~~
20 ~~submitted in compliance with Section 9795 of the Government~~
21 ~~Code.~~

22 ~~(h)~~

23 ~~(k) This section is repealed on December 1, 2025.~~

24 SEC. 2. Section 23689 of the Revenue and Taxation Code is
25 amended to read:

26 23689. (a) (1) For each taxable year beginning on and after
27 January 1, 2014, and before January 1, 2025, there shall be allowed
28 as a credit against the "tax," as defined in Section 23036, an amount
29 as determined by the committee pursuant to paragraph (2) and
30 approved pursuant to Section 18410.2.

31 (2) The credit under this section shall be allocated by GO-Biz
32 with respect to the 2013–14 fiscal year through and including the
33 2017–18 fiscal year. The amount of credit allocated to a taxpayer
34 with respect to a fiscal year pursuant to this section shall be as set
35 forth in a written agreement between GO-Biz and the taxpayer and
36 shall be based on the following factors:

37 (A) The number of jobs the taxpayer will create or retain in this
38 state.

39 (B) The compensation paid or proposed to be paid by the
40 taxpayer to its employees, including wages and fringe benefits.

1 (C) The amount of investment in this state by the taxpayer.

2 (D) The extent of unemployment or poverty in the area
3 according to the United States Census in which the taxpayer's
4 project or business is proposed or located.

5 (E) The incentives available to the taxpayer in this state,
6 including incentives from the state, local government, and other
7 entities.

8 (F) The incentives available to the taxpayer in other states.

9 (G) The duration of the proposed project and the duration the
10 taxpayer commits to remain in this state.

11 (H) The overall economic impact in this state of the taxpayer's
12 project or business.

13 (I) The strategic importance of the taxpayer's project or business
14 to the state, region, or locality.

15 (J) The opportunity for future growth and expansion in this state
16 by the taxpayer's business.

17 (K) The extent to which the anticipated benefit to the state
18 exceeds the projected benefit to the taxpayer from the tax credit.

19 (3) The written agreement entered into pursuant to paragraph
20 (2) shall include:

21 (A) Terms and conditions that include the taxable year or years
22 for which the credit allocated shall be allowed, a minimum
23 compensation level, and a minimum job retention period.

24 (B) Provisions indicating whether the credit is to be allocated
25 in full upon approval or in increments based on mutually agreed
26 upon milestones when satisfactorily met by the taxpayer.

27 (C) Provisions that allow the committee to recapture the credit,
28 in whole or in part, if the taxpayer fails to fulfill the terms and
29 conditions of the written agreement.

30 (b) For purposes of this section:

31 (1) "Committee" means the California Competes Tax Credit
32 Committee established pursuant to Section 18410.2.

33 (2) "GO-Biz" means the Governor's Office of Business and
34 Economic Development.

35 (c) For purposes of this section, GO-Biz shall do the following:

36 (1) Give priority to a taxpayer whose project or business is
37 located or proposed to be located in an area of high unemployment
38 or poverty.

1 (2) Negotiate with a taxpayer the terms and conditions of
2 proposed written agreements that provide the credit allowed
3 pursuant to this section to a taxpayer.

4 (3) Provide the negotiated written agreement to the committee
5 for its approval pursuant to Section 18410.2.

6 (4) Inform the Franchise Tax Board of the terms and conditions
7 of the written agreement upon approval of the written agreement
8 by the committee.

9 (5) Inform the Franchise Tax Board of any recapture, in whole
10 or in part, of a previously allocated credit upon approval of the
11 recapture by the committee.

12 (6) Post on its Internet Web site all of the following:

13 (A) The name of each taxpayer allocated a credit pursuant to
14 this section.

15 (B) The estimated amount of the investment by each taxpayer.

16 (C) The estimated number of jobs created or retained.

17 (D) The amount of the credit allocated to the taxpayer.

18 (E) The amount of the credit recaptured from the taxpayer, if
19 applicable.

20 (F) ~~The city and county primary location where the jobs created~~
21 ~~and the investments made are located, which may be more than~~
22 ~~one city or county. taxpayer has committed to increasing the net~~
23 ~~number of jobs or make investments. The primary location shall~~
24 ~~be listed by city or, in the case of unincorporated areas, by county.~~

25 (G) ~~Whether the census tract in which the jobs will be created~~
26 ~~or the investments will be made is an area of high unemployment~~
27 ~~or poverty, as provided in paragraph (1).~~

28 (H) ~~Whether the taxpayer is considered a small business~~
29 ~~pursuant to paragraph (3) of subdivision (g).~~

30 (G) *Information that identifies each tax credit award that was*
31 *given a priority for being located in a high unemployment or*
32 *poverty area, pursuant to paragraph (1).*

33 (H) *Information that identifies each tax credit award that is*
34 *being counted toward the requirement of paragraph (3) of*
35 *subdivision (g).*

36 (d) For purposes of this section, the Franchise Tax Board shall
37 do all of the following:

38 (1) (A) Except as provided in subparagraph (B), review the
39 books and records of all taxpayers allocated a credit pursuant to

1 this section to ensure compliance with the terms and conditions
2 of the written agreement between the taxpayer and GO-Biz.

3 (B) In the case of a taxpayer that is a “small business,” as
4 defined in Section 23626, review the books and records of the
5 taxpayer allocated a credit pursuant to this section to ensure
6 compliance with the terms and conditions of the written agreement
7 between the taxpayer and GO-Biz when, in the sole discretion of
8 the Franchise Tax Board, a review of those books and records is
9 appropriate or necessary in the best interests of the state.

10 (2) Notwithstanding Section 19542:

11 (A) Notify GO-Biz of a possible breach of the written agreement
12 by a taxpayer and provide detailed information regarding the basis
13 for that determination.

14 (B) Provide information to GO-Biz with respect to whether a
15 taxpayer is a “small business,” as defined in Section 23626.

16 (e) In the case where the credit allowed under this section
17 exceeds the “tax,” as defined in Section 23036, for a taxable year,
18 the excess credit may be carried over to reduce the “tax” in the
19 following taxable year, and succeeding five taxable years, if
20 necessary, until the credit has been exhausted.

21 (f) Any recapture, in whole or in part, of a credit approved by
22 the committee pursuant to Section 18410.2 shall be treated as a
23 mathematical error appearing on the return. Any amount of tax
24 resulting from that recapture shall be assessed by the Franchise
25 Tax Board in the same manner as provided by Section 19051. The
26 amount of tax resulting from the recapture shall be added to the
27 tax otherwise due by the taxpayer for the taxable year in which
28 the committee’s recapture determination occurred.

29 (g) (1) The aggregate amount of credit that may be allocated
30 in any fiscal year pursuant to this section and Section 17059.2 shall
31 be an amount equal to the sum of subparagraphs (A), (B), and (C),
32 less the amount specified in subparagraphs (D) and (E):

33 (A) Thirty million dollars (\$30,000,000) for the 2013–14 fiscal
34 year, one hundred fifty million dollars (\$150,000,000) for the
35 2014–15 fiscal year, and two hundred million dollars
36 (\$200,000,000) for each fiscal year from 2015–16 to 2017–18,
37 inclusive.

38 (B) The unallocated credit amount, if any, from the preceding
39 fiscal year.

1 (C) The amount of any previously allocated credits that have
2 been recaptured.

3 (D) The amount estimated by the Director of Finance, in
4 consultation with the Franchise Tax Board and the State Board of
5 Equalization, to be necessary to limit the aggregation of the
6 estimated amount of exemptions claimed pursuant to Section
7 6377.1 and of the amounts estimated to be claimed pursuant to
8 this section and Sections 17053.73, 17059.2, and 23626 to no more
9 than seven hundred fifty million dollars (\$750,000,000) for either
10 the current fiscal year or the next fiscal year.

11 (i) The Director of Finance shall notify the Chairperson of the
12 Joint Legislative Budget Committee of the estimated annual
13 allocation authorized by this paragraph. Any allocation pursuant
14 to these provisions shall be made no sooner than 30 days after
15 written notification has been provided to the Chairperson of the
16 Joint Legislative Budget Committee and the chairpersons of the
17 committees of each house of the Legislature that consider
18 appropriation, or not sooner than whatever lesser time the
19 Chairperson of the Joint Legislative Budget Committee, or his or
20 her designee, may determine.

21 (ii) In no event shall the amount estimated in this subparagraph
22 be less than zero dollars (\$0).

23 (E) (i) For the 2015–16 fiscal year and each fiscal year
24 thereafter, the amount of credit estimated by the Director of Finance
25 to be allowed to all qualified taxpayers for that fiscal year pursuant
26 to subparagraph (A) or subparagraph (B) of paragraph (1) of
27 subdivision (c) of Section 23636.

28 (ii) If the amount available per fiscal year pursuant to this section
29 and Section 17059.2 is less than the aggregate amount of credit
30 estimated by the Director of Finance to be allowed to qualified
31 taxpayers pursuant to subparagraph (A) or subparagraph (B) of
32 paragraph (1) of subdivision (c) of Section 23636, the aggregate
33 amount allowed pursuant to Section 23636 shall not be reduced
34 and, in addition to the reduction required by clause (i), the
35 aggregate amount of credit that may be allocated pursuant to this
36 section and Section 17059.2 for the next fiscal year shall be reduced
37 by the amount of that deficit.

38 (iii) It is the intent of the Legislature that the reductions specified
39 in this subparagraph of the aggregate amount of credit that may
40 be allocated pursuant to this section and Section 17059.2 shall

1 continue if the repeal dates of the credits allowed by this section
2 and Section 17059.2 are removed or extended.

3 (2) (A) In addition to the other amounts determined pursuant
4 to paragraph (1), the Director of Finance may increase the
5 aggregate amount of credit that may be allocated pursuant to this
6 section and Section 17059.2 by up to twenty-five million dollars
7 (\$25,000,000) per fiscal year through the 2017–18 fiscal year. The
8 amount of any increase made pursuant to this paragraph, when
9 combined with any increase made pursuant to paragraph (2) of
10 subdivision (g) of Section 17059.2, shall not exceed twenty-five
11 million dollars (\$25,000,000) per fiscal year through the 2017–18
12 fiscal year.

13 (B) It is the intent of the Legislature that the Director of Finance
14 increase the aggregate amount under subparagraph (A) in order to
15 mitigate the reduction of the amount available due to the credit
16 allowed to all qualified taxpayers pursuant to subparagraph (A) or
17 (B) of paragraph (1) of subdivision (c) of Section 23636.

18 (3) Each fiscal year, 25 percent of the aggregate amount of the
19 credit that may be allocated pursuant to this section and Section
20 17059.2 shall be reserved for “small business,” as defined in
21 Section 17053.73 or 23626.

22 (4) Each fiscal year, no more than 20 percent of the aggregate
23 amount of the credit that may be allocated pursuant to this section
24 shall be allocated to any one taxpayer.

25 (h) GO-Biz may prescribe rules and regulations as necessary to
26 carry out the purposes of this section. Any rule or regulation
27 prescribed pursuant to this section may be by adoption of an
28 emergency regulation in accordance with Chapter 3.5 (commencing
29 with Section 11340) of Part 1 of Division 3 of Title 2 of the
30 Government Code.

31 (i) (1) A written agreement between GO-Biz and a taxpayer
32 with respect to the credit authorized by this section shall not
33 restrict, broaden, or otherwise alter the ability of the taxpayer to
34 assign that credit or any portion thereof in accordance with Section
35 23663.

36 (2) A written agreement between GO-Biz and a taxpayer with
37 respect to the credit authorized by this section shall comply with
38 existing law on the date the agreement is executed.

39 (j) (1) Upon the effective date of this section, the Department
40 of Finance shall estimate the total dollar amount of credits that

1 will be claimed under this section with respect to each fiscal year
2 from the 2013–14 fiscal year to the 2024–25 fiscal year, inclusive.

3 (2) The Franchise Tax Board shall annually provide to the Joint
4 Legislative Budget Committee, by no later than March 1, a report
5 of the total dollar amount of the credits claimed under this section
6 with respect to the relevant fiscal year. The report shall compare
7 the total dollar amount of credits claimed under this section with
8 respect to that fiscal year with the department’s estimate with
9 respect to that same fiscal year. If the total dollar amount of credits
10 claimed for the fiscal year is less than the estimate for that fiscal
11 year, the report shall identify options for increasing annual claims
12 of the credit so as to meet estimated amounts.

13 ~~(k) (1) GO-Biz shall annually provide to the Legislature, by no~~
14 ~~later than March 1, a report of aggregate level data on both of the~~
15 ~~following:~~

16 ~~(A) The information posted on GO-Biz’s Internet Web site~~
17 ~~pursuant to paragraph (6) of subdivision (c). The data shall include~~
18 ~~the amount of credits, jobs created, and investments made in all~~
19 ~~of the following:~~

20 ~~(i) Each city and county.~~

21 ~~(ii) Each census tract in which the jobs will be created or the~~
22 ~~investments will be made that is an area of high unemployment or~~
23 ~~poverty, as provided in paragraph (1) of subdivision (c).~~

24 ~~(iii) Each entity that is considered a small business pursuant to~~
25 ~~paragraph (3) of subdivision (g).~~

26 ~~(B) The number of total credits applied for and the number of~~
27 ~~credit applications rejected during the calendar year in total and~~
28 ~~by geographic region, as determined by GO-Biz.~~

29 ~~(2) A report submitted pursuant to paragraph (1) shall be~~
30 ~~submitted in compliance with Section 9795 of the Government~~
31 ~~Code.~~

32 ~~(t)~~

33 ~~(k) This section is repealed on December 1, 2025.~~